EXHIBIT A

SUPERIOR COURT
BURLINGTON COUNTY
2016 AUG -9 AM 9:24
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ATTORNEYS FOR PLAINTIFFS
KEVIN DUGAN AND ROMAN ZIELONKA

SUPERIOR COURT OF NJ
BURLINGTON COUNTY
FILED
8-9-16
Civil Division

KEVIN DUGAN and ROMAN ZIELONKA,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION BURLINGTON COUNTY
Plaintiffs,	:	DOCKET NO. L-1670-16
v.	:	Civil Action
BEST BUY CO. INC.,	:	**COMPLAINT AND DEMAND FOR JURY TRIAL**
Defendant.	:	

18, jury

BATCH 009
Charge Account # 140796
Amount $ 250

INTRODUCTORY STATEMENT

1. Plaintiffs Kevin Dugan and Roman Zielonka bring this civil rights action against their former employer, defendant Best Buy Co. Inc., under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (NJLAD), to remedy discrimination against them on account of their age, which resulted in defendant's termination of plaintiffs' employment. Plaintiff Kevin Dugan further alleges that in terminating his employment, defendant retaliated against him for having complained of age-related bias.

copy sent

THE PARTIES

2. Plaintiff Kevin Dugan is a resident of the State of New Jersey, residing at 33 Spyglass Court, Westampton, New Jersey 08060.

3. Plaintiff Roman Zielonka is a resident of the State of New Jersey, residing at 412 Helen Street, Linden, New Jersey 07036.

4. Defendant Best Buy Co. Inc. (the "defendant" or "Company") is a publicly held corporation headquartered in Richfield, Minnesota. Defendant is a multinational purveyor of consumer electronics, with more than 1,000 retail locations worldwide and annual revenues in excess of 42 billion dollars. Venue is appropriate in this County since defendant operates 17 retail locations throughout the state of New Jersey, including one in Mount Laurel, New Jersey, in Burlington County.

FACTUAL ALLEGATIONS

5. Plaintiffs began reporting to District Manager Garrett Hetrick in the Spring of 2014, when defendant promoted Hetrick into the District Manager position. Mr. Hetrick is in his mid-30s.

6. Market Director Chris Bragg, to whom plaintiffs also reported, was Mr. Hetrick's manager. Mr. Bragg is in his late 30s.

7. During the approximately first two years that Hetrick was District Manager – from the Spring of 2014 until the Spring of 2016 – the defendant promoted at least eight people -- all in their late 20s or early 30s -- into the position of General Manager and/or Market Staff reporting to District Manager Hetrick and Market Director Bragg, including the following:

a) Nick Metzner
b) Mike Yost

c) Mark Milniscuk

d) Patrick Rogers

e) Cory Metrokatsas

f) Rob Pandolfo

g) Brent Fomeyer

h) Gil Lopez

i) John Tanis

8. During that same period, defendant terminated and/or caused the resignation of numerous of its older General Managers, including plaintiffs Dugan and Zielonka, as well as several others, including Bill Basham (50s) and Bill Jaynes (40s).

Dugan Allegations of Fact

9. Plaintiff Dugan began working for defendant in June 2000 as an Assistant Manager at the defendant's Westbury, Long Island, New York location.

10. Within the first few years of plaintiff Dugan's employment, defendant promoted him to the position of General Manager, a position he held for approximately 13 years until defendant's termination of his employment on April 5th, 2016.

11. Throughout his employment, plaintiff Dugan performed his job duties in a professional and dedicated manner. In his 16 years of employment, he was never disciplined for any "inappropriate conduct" or any violation of defendant's policies.

12. At the time of defendant's termination of plaintiff Dugan's employment, he held the position of General Manager of the Woodbridge, New Jersey store, where he had been assigned since May 2010.

13. At the time of defendant's termination of plaintiff Dugan's employment, he was 46 years old, and one of the oldest of defendant's General Managers reporting to District Manager Hetrick.

14. During the time in which plaintiff Dugan reported to District Manager Hetrick, Hetrick made several age-related comments to plaintiff Dugan, including the following: stating to plaintiff Dugan that "stores are tough to run when you are getting old;" stating to plaintiff Dugan that he needed to "find another gear" in which to work; and stating to plaintiff Dugan that he needed to "work faster."

15. In addition, on at least two separate occasions, Hetrick stated to plaintiff Dugan that he believed plaintiff Dugan was "getting too old for the job," the most recent occasion being during a Leadership Meeting held by defendant in October 2015.

16. In response to District Manager Hetrick's comment at the October 2015 meeting – "you're getting too old for the job" -- plaintiff Dugan stated to Hetrick, "That will be enough of that," making clear his objection to the comment.

17. In early 2016, defendant's Human Resources Support Team, apparently alerted to age-biased comments that had been made by District Manager Hetrick, contacted plaintiff Dugan to ask whether Hetrick had ever made any age-related comments or references in his presence.

18. In response to the inquiry from the defendant's Human Resources representative, plaintiff Dugan responded in the affirmative, and reported to the defendant's Human Resources representative the comments made by District Manager Hetrick quoted above, including: that plaintiff Dugan was "getting too old for the job;" that "stores are tough to run when you are getting old"; that plaintiff Dugan needed to "find another gear" in which to work"; and that plaintiff Dugan needed to "work faster."

19. Following his phone call with Human Resources, plaintiff Dugan called District Manager Hetrick and informed him that he had been called by Human Resources

asking about Hetrick's age-related comments, and that he had confirmed with Human Resources that he had indeed heard several such comments.

20. On March 29th, 2016, defendant directed plaintiff Dugan to attend a meeting with Human Resources regarding an employee named Mohammed Khalifa. The meeting was held by phone, and included plaintiff Dugan, District Manager Hetrick, Market Human Resources Director Joe Shearn, and a representative from the defendant's Human Resources Support Center.

21. During the phone call, plaintiff Dugan was asked how long he had been employed by the defendant, and about an interaction he had with Mr. Khalifa on March 24th, 2016.

22. During the phone call, plaintiff Dugan was asked if at any point during his interaction with Mr. Khalifa on March 24th, 2016, he had made either of the following statements to Mr. Khalifa: "I will kill you," or "I will kidnap your wife." Plaintiff Dugan denied making any such statements as he never made any such statements to Mr. Khalifa.

23. During the phone call, plaintiff Dugan was also asked if at any point during his interaction with Mr. Khalifa on March 24th, 2016, he had made other statements to Mr. Khalifa "to that effect." Plaintiff Dugan responded that he had not.

24. During the phone call, plaintiff Dugan explained that during his interaction with Mr. Khalifa on March 24th, 2016, Mr. Khalifa had taken offense to plaintiff Dugan's imitation of his voice, and that he had immediately apologized to Mr. Khalifa for offending him, and that he had made clear to Mr. Khalifa that it was not his intent to offend him. Plaintiff Dugan also explained that subsequent to his apology to Mr. Khalifa,

he had also contacted Market Human Resources Director Joe Shearn to inform him of the interaction.

25. On April 5th, 2016, District Manager Hetrick and Market Human Resources Director Joe Shearn presented plaintiff Dugan with an "Involuntary Separation Notice" dated for that day, and informed plaintiff Dugan that the defendant had decided to terminate his employment for "inappropriate conduct." A true and correct copy of the "Involuntary Separation Notice" is attached hereto as Exhibit A and incorporated by reference.

26. The purported basis for defendant's termination of plaintiff Dugan was that he had "engaged in behavior that was harassing and disruptive to the workforce. . . [including] teasing with offensive comments related to national origin and hurtful to at least one other employee." See Exhibit A.

27. In the hope that defendant would take the steps necessary to gather a complete picture of the interaction at issue, plaintiff Dugan inquired of District Manager Hetrick and Market Human Resources Director Joe Shearn whether they or any other representative of the defendant had reviewed the available security footage of the interaction in question. They admitted that neither they nor anyone else had done so.

28. When plaintiff Dugan also asked who had made the decision to terminate his employment, District Manager Hetrick replied that he and Market Director Bragg had made the decision to terminate plaintiff Dugan's employment.

29. Plaintiff Dugan also asked whether there were any written statements regarding the alleged incident with Mr. Khalifa and was told he would have to contact

Human Resources, even though Market Human Resources Director Joe Shearn was present in the room at the time.

30. During the meeting on April 5th, 2016, plaintiff Dugan refused to sign the "Involuntary Separation Notice," since he did not engage in the conduct described in the "Involuntary Separation Notice." See Exhibit A.

31. Defendant's Performance Policy relating to "inappropriate conduct" by its employees segregates incidents by severity level and provides for different levels of corrective action depending on the severity of the misconduct.

32. In this regard, the Performance Policy states that the disciplinary action for a "Scenario One" situation is a written warning. A true and correct copy of the defendant's "Inappropriate Conduct – Levels of Severity" guidelines is attached hereto as Exhibit B and incorporated by reference.

33. A "Scenario One" situation is described in defendant's Performance Policy as follows:

> '**Scenario One** – Sam tells a group of employees an inappropriate joke, making reference to a particular religious group. An employee, who heard the joke and was offended, confronted Sam. Sam, who has no prior history of similar behavior, quickly apologized for offending his co-worker.
>
> - **Outcome: Written Warning for Unsatisfactory Work Performance (related to Company Values)**'

See Exhibit B.

34. Contrary to defendant's Performance Policy, rather than issuing plaintiff Dugan a written warning for "unsatisfactory work performance" for a "Scenario One" violation, defendant instead summarily terminated his employment.

35. Throughout plaintiff Dugan's employment, he had never received any type of disciplinary action for "inappropriate conduct."

36. Following defendant's termination of plaintiff Dugan's employment, defendant replaced plaintiff Dugan with a significantly younger employee – Nick Metzner – who is in his late 20s or early 30s.

Zielonka Allegations of Fact

37. Plaintiff Zielonka began working for defendant in August 2000 as a Supervisor at defendant's Woodbridge, New Jersey store.

38. Within the first few years of plaintiff Zielonka's employment, defendant promoted plaintiff on several occasions, including to the position of Sales Manager, Operations Manager, General Manager in Training, and finally to General Manager, a position he held for approximately 11 years until the defendant's termination of his employment on December 14th, 2015.

39. Throughout his employment, defendant frequently assigned plaintiff Zielonka to "grand open" a store, including the Manalapan and Paramus locations, based on his proven track record, demonstrated commitment and work ethic.

40. Throughout plaintiff Zielonka's tenure with the Company, defendant assigned plaintiff Zielonka to service numerous stores, including the Rockaway, Brick, Holmdel, East Brunswick and South Brunswick, New Jersey stores.

41. At the time of defendant's termination of plaintiff Zielonka's employment, plaintiff Zielonka held the position of General Manager of the South Brunswick, New Jersey store, where he had been assigned since 2013.

42. At the time of defendant's termination of plaintiff Zielonka's employment, plaintiff Zielonka was 43 years old, and one of the oldest of defendant's General Managers reporting to defendant's District Manager Hetrick.

43. During the time in which plaintiff Zielonka reported to District Manager Hetrick and Market Director Bragg, they both made several age-related comments during store meetings and market meetings in which plaintiff Zielonka participated, including commenting that the younger, newer General Managers were willing to "work harder and travel further," and also commenting that the older, more experienced managers had a tendency to "not want to change."

44. Soon after Hetrick assumed the position of District Manager, he repeatedly threatened plaintiff Zielonka that he would put him on a Performance Improvement Plan because he "wasn't happy with his performance," while nonetheless also consistently informing plaintiff Zielonka that his store "looked good" and that he had achieved "good results" at his store.

45. Despite District Manager Hetrick's ongoing threats about placing plaintiff Zielonka on a Performance Improvement Plan, he never followed through, and plaintiff Zielonka's performance, when viewed objectively, never warranted a Performance Improvement Plan.

46. Plaintiff Zielonka was assigned to work the entirety of Black Friday weekend in 2015, including Thursday, November 26th [Thanksgiving Day], Friday, November 27th, Saturday, November 28th, and Sunday, November 29th.

47. While working that weekend, both District Manager Hetrick and Market Director Bragg called plaintiff Zielonka on Saturday, November 28th, and told him that he had done a "great job," commenting that his store was one of the "top revenue" stores.

48. Then, later that Saturday, defendant's Market Asset Protection representative Brian Farrell visited the South Brunswick store with District Manager Hetrick, and separately called in plaintiff Zielonka's direct reports – Filipe Maltez, Supervisor, and Shana Bell, Assistant Manager. Plaintiff Zielonka was not present for their questioning.

49. Following the questioning of plaintiff Zielonka's direct reports, Farrell and Hetrick met with plaintiff Zielonka, and accused him of engaging in "bulk selling" in violation of the Company's policies.

50. During this meeting, plaintiff Zielonka maintained that he had acted in accordance with defendant's policy, and also in a manner consistent with defendant's other General Managers.

51. Despite plaintiff Zielonka's response, during the meeting defendant continued to press plaintiff Zielonka to admit to wrongdoing, with District Manager Hetrick falsely claiming to have previously discussed "bulk selling" with plaintiff Zielonka. Plaintiff Zielonka directly challenged District Manager Hetrick's claim in this regard during the meeting.

52. Despite the pressure plaintiff Zielonka experienced during the meeting to admit to wrongdoing, he maintained that he had at all times acted in accordance with Company policy and in the same fashion that other General Managers, including the younger General Managers, had acted in carrying out their duties. The meeting ended with plaintiff Zielonka being told in a threatening manner, "We will get back to you."

53. A couple of weeks later, plaintiff Zielonka received a phone call from the defendant's Human Resources representative, who accused plaintiff Zielonka of "not telling the truth" about what had happened with respect to the bulk sale, and made clear to plaintiff Zielonka that she was not interested in any information he attempted to share with her.

54. Prior to receiving this phone call, it was reported to plaintiff Zielonka that Market Director Bragg had informed Market Human Resources Director Joseph Shearn that, "We are going to need to find a new General Manager for the South Brunswick store because I intend to terminate Mr. Zielonka."

55. On December 14th, 2015, defendant directed plaintiff Zielonka to attend a meeting with District Manager Hetrick and Human Resources Director Shearn. Hetrick presented plaintiff Zielonka with an "Involuntary Separation Notice" and stated, "Roman, you are going to get fired, terminated today." A true and correct copy of the "Involuntary Separation Notice" is attached hereto as Exhibit C and incorporated by reference.

56. The purported basis for plaintiff Zielonka's termination was that he had "initiated and directed two of [his] leaders to process transactions for limited quantity merchandise rather than directed the buyer to BBfB." See Exhibit C.

57. During the meeting on December 14th, 2015, plaintiff Zielonka refused to sign the "Involuntary Separation Notice," since he did not engage in the conduct described in the Notice, and because he believed he was unfairly singled out on the basis of his age. See Exhibit C.

58. Defendant's "Resellers Standard Operating Procedures" invests its General Managers with "discretion" in transacting with customers who are interested in

"maximum purchase quantities." A true and correct copy of the "Resellers Standard Operating Procedures" is attached hereto as Exhibit D and incorporated by reference.

59. Plaintiff Zielonka followed defendant's "Resellers Standard Operating Procedures" on November 27th, 2015, after learning from his direct reports that a customer was interested in "maximum purchase quantities."

60. Plaintiff Zielonka's direct reports – Mr. Maltez and Ms. Bell – did not receive any discipline for the alleged incident, despite their having been the individuals directly involved with the customer on November 27th, 2015. Mr. Maltez and Ms. Bell are both in their 20s.

61. Likewise, there are numerous younger General Managers who routinely exercise their discretion in the same fashion that plaintiff Zielonka did on the date in question in regard to customer requests for large quantities of products, but the younger General Managers have not been terminated or even disciplined.

62. Following defendant's termination of plaintiff Zielonka's employment, defendant replaced plaintiff Zielonka with a significantly younger employee – John Tanis – who is in his late 20s or early 30s.

COUNT ONE
Age Discrimination in Violation of the
New Jersey Law Against Discrimination
(on behalf of Dugan and Zielonka)

63. Plaintiffs restate and incorporate the preceding paragraphs as if set forth herein in their entirety.

64. In terminating plaintiffs' employment, defendant discriminated against plaintiffs on account of their age in violation of the New Jersey Law Against Discrimination.

65. As a direct and proximate result of defendant's violations of the NJLAD, plaintiffs have suffered a loss of wages and benefits and emotional distress damages.

COUNT TWO

Retaliation in Violation of the New Jersey Law Against Discrimination
(on behalf of Dugan)

66. Plaintiff Dugan restates and incorporates the preceding paragraphs as if set forth herein in their entirety.

67. By engaging in the aforementioned activities, plaintiff Dugan was engaged in protected conduct under the NJLAD.

68. In terminating plaintiff Dugan's employment, defendant retaliated against plaintiff Dugan for his complaints of age-related animus and bias by his supervisor Garrett Hetrick.

69. Defendant's retaliation against plaintiff Dugan violates the provisions of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-12.

70. As a direct and proximate result of defendant's unlawful retaliation against plaintiff Dugan, plaintiff Dugan has suffered, and will continue to suffer, the loss of his employment, the loss of significant wages and benefits, as well as emotional distress damages.

RELIEF REQUESTED

WHEREFORE, plaintiffs demand judgment against the defendant and request the following relief:

a. Order that defendant reinstate plaintiffs to their respective positions with defendant or to comparable positions in terms of salary, benefits and responsibility;

b. Order that defendant make plaintiffs whole for all losses they have suffered, still suffer, and will suffer in terms of lost wages, benefits, insurance and pension coverage, and any other fringe benefits of their employment;

c. Award plaintiffs compensatory damages for the injuries, including emotional distress, suffered as a result of defendant's discrimination and retaliation against plaintiffs because of their age in violation of the New Jersey Law Against Discrimination;

d. Award plaintiffs punitive damages on the grounds of upper management's actual participation in and/or willful indifference to defendant's discrimination and retaliation against plaintiffs;

e. Award plaintiffs' attorneys' fees and costs incurred by the need to bring this litigation; and

f. Grant plaintiffs such relief as the Court deems just and proper.

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SCHALL & BARASCH. L.L.C.

By: [signature]
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 5, 2016

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues as permitted by law.

SCHALL & BARASCH, L.L.C.

By: ______________________
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 5, 2016

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BY: 006

CERTIFICATION PURSUANT TO RULE 4:5-1

1. I certify that, to my knowledge, the matter in controversy is not the subject of any other action pending in Court or of a pending arbitration proceeding

2. To my knowledge, no other action or arbitration is contemplated.

SCHALL & BARASCH, L.L.C.

By: ______________________
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 5, 2016

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Patricia Barasch is hereby designated as trial counsel in this matter.

BY: ______________________
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 5, 2016

EXHIBIT B

CT Corporation

Service of Process Transmittal
08/25/2016
CT Log Number 529739447

TO: Melissa Partlow
Best Buy Enterprise Services, Inc.
7601 Penn Ave S
Richfield, MN 55423-3683

RE: **Process Served in New Jersey**

FOR: Best Buy Co., Inc. (Domestic State: MN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Kevin Dugan and Roman Zielonka, Pltfs. vs. Best Buy Co. Inc., Dft.
DOCUMENT(S) SERVED:	Summons, First Amended Complaint, Exhibit(s)
COURT/AGENCY:	Burlington County Superior Court - Law Division, NJ Case # BURL00167016
NATURE OF ACTION:	Employee Litigation - Wrongful Termination
ON WHOM PROCESS WAS SERVED:	The Corporation Trust Company, West Trenton, NJ
DATE AND HOUR OF SERVICE:	By Messenger on 08/25/2016 at 15:18
JURISDICTION SERVED :	New Jersey
APPEARANCE OR ANSWER DUE:	Within 35 days from the date of receipt, not counting the date of receipt
ATTORNEY(S) / SENDER(S):	Patricia A. Barasch Schall & Barasch, LLC Moorestown Office Center 110 Marter Avenue Suite 302 Moorestown, NJ 08057 856-914-9200
ACTION ITEMS:	CT has retained the current log, Retain Date: 08/26/2016, Expected Purge Date: 08/31/2016 Image SOP Email Notification, Melissa Partlow Melissa.Partlow@bestbuy.com Email Notification, Kristi Redman Clapp Kristi.RedmanClapp@bestbuy.com
SIGNED:	The Corporation Trust Company
ADDRESS:	820 Bear Tavern Road 3rd Floor West Trenton, NJ 08628
TELEPHONE:	609-538-1818

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

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West Trenton, NJ 08628

www.SchallandBarasch.com
Employee Rights Advocates

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ATTORNEYS FOR PLAINTIFFS
KEVIN DUGAN AND ROMAN ZIELONKA

KEVIN DUGAN and ROMAN ZIELONKA,	: SUPERIOR COURT OF NEW JERSEY LAW DIVISION BURLINGTON COUNTY
Plaintiffs,	:
v.	: DOCKET NO. L-1670-16
BEST BUY CO. INC.,	: Civil Action
Defendant.	:
	: **SUMMONS**

THE STATE OF NEW JERSEY, TO THE ABOVE NAMED DEFENDANT:

The plaintiffs named above have filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ, 08625. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiffs' attorney whose name and address appear above, or to plaintiffs if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of $135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiffs demand plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Service office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to any attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

---

s/ Michelle M. Smith
Michelle M. Smith, Clerk of Superior Court

Dated: August 25, 2016

Name of Defendant to be served:

BEST BUY CO. INC.
c/o Registered Agent
The Corporation Trust Company
820 Bear Tavern Road
West Trenton, NJ, 08628

DEPUTY CLERK

ATLANTIC COUNTY
Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

~~BERGEN COUNTY:~~
Deputy Clerk of the Superior Court
Case Processing Section, Room 119
Justice Center, 10 Main Street
Hackensack, NJ 07601-0769

~~LAWYER REFERRAL~~
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:
Deputy Clerk of the Superior Court
Central Processing Office
ATTN: Judicial Intake
First Fl., Courts Facility
49 Rancocas Road
Mt. Holly, NJ 08060

LAWYER REFERALL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:
Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth Street
Camden, NJ 08103

LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:
Deputy Clerk of the Superior Court
9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210

LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:
Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Sts., P.O. Box 615
Bridgeton, NJ 08302

LAWYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003

ESSEX COUNTY:
Deputy Clerk of the Superior Court
50 West Market Street
Room 131
Newark, NJ 07102

LAWYER REFERRAL
(973) 622-6207
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:
Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Fl., Court House
1 North Broad Street, P.O. Box 129
Woodbury, NJ 08096

LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:
Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House – 1st Floor
583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:
Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:
Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650

LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:
Deputy Clerk of the Superior Court
Administration Building
Third Floor
1 Kennedy Sq., P. O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:
Deputy Clerk of the Superior Court
Court House
71 Monument Park
P.O. Box 1269
Freehold, NJ 07728-1269

LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Pl., P.O. Box 910 Morristown, NJ 07960-0910	LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911
OCEAN COUNTY: Deputy Clerk of the Superior Court Court House, Room 119 ~~118 Washington Street~~ Toms River, NJ 08754	LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 341-2727
PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton St. Paterson, NJ 07505	LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 345-7171
SALEM COUNTY: Deputy Clerk of the Superior Court 92 Market St., P.O. Box 18 Salem, NJ 08079	LAWYER REFERRAL (856) 935-5628 LEGAL SERVICES (856) 451-0003
SOMERSET COUNTY: Deputy Clerk of the Superior Court Civil Division Office New Court House, 3rd Fl. Somerville, NJ 08876	LAWYER REFERRAL (908) 685-2323 LEGAL SERVICES (908) 231-0840
SUSSEX COUNTY: Deputy Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07207-6073	LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 383-7400
UNION COUNTY: Deputy Clerk of the Superior Court 1st Fl., court House 2 Broad Street Elizabeth, NJ 07207-6073	LAWYER REFERRAL (908) 353-4715 LEGAL SERVICES (908) 354-4340
WARREN COUNTY: Deputy Clerk of the Superior Court Civil Division Office Court House 413 Second Street Belvidere, NJ 07823-1500	LAWYER REFERRAL (908) 267-5882 LEGAL SERVICES (908) 475-2010

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SUPERIOR COURT
BURLINGTON COUNTY

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SUPERIOR COURT OF NJ
BURLINGTON COUNTY
FILED
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Civil Division

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KEVIN DUGAN AND ROMAN ZIELONKA

KEVIN DUGAN and ROMAN ZIELONKA,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION BURLINGTON COUNTY
Plaintiffs,	:	DOCKET NO. BUR-L-001670-16
v.	:	Civil Action
BEST BUY CO. INC.,	:	**FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**
Defendant.	:	

INTRODUCTORY STATEMENT

1. Plaintiffs Kevin Dugan and Roman Zielonka bring this civil rights action against their former employer, defendant Best Buy Co. Inc., under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (NJLAD), to remedy discrimination against them on account of their age, which resulted in defendant's termination of plaintiffs' employment. Plaintiff Kevin Dugan further alleges that in terminating his employment, defendant retaliated against him for having complained of age-related bias.

THE PARTIES

2. Plaintiff Kevin Dugan is a resident of the State of New Jersey, residing at 33 Spyglass Court, Westampton, New Jersey 08060.

3. Plaintiff Roman Zielonka is a resident of the State of New Jersey, residing at 412 Helen Street, Linden, New Jersey 07036.

4. Defendant Best Buy Co. Inc. (the "defendant" or "Company") is a publicly held corporation headquartered in Richfield, Minnesota. Defendant is a multinational purveyor of consumer electronics, with more than 1,000 retail locations worldwide and annual revenues in excess of 42 billion dollars. Venue is appropriate in this County since defendant operates 17 retail locations throughout the state of New Jersey, including one in Mount Laurel, New Jersey, in Burlington County.

FACTUAL ALLEGATIONS

5. Plaintiffs began reporting to District Manager Garrett Hetrick in the Spring of 2014, when defendant promoted Hetrick into the District Manager position. Mr. Hetrick is in his mid-30s.

6. Market Director Chris Bragg, to whom plaintiffs also reported, was Mr. Hetrick's manager. Mr. Bragg is in his late 30s.

7. During the approximately first two years that Hetrick was District Manager – from the Spring of 2014 until the Spring of 2016 – the defendant promoted at least eight people -- all in their late 20s or early 30s -- into the position of General Manager and/or Market Staff reporting to District Manager Hetrick and Market Director Bragg, including the following:

a) Nick Metzner
b) Mike Yost

c) Mark Milniscuk
d) Patrick Rogers
e) Cory Metrokatsas
f) Rob Pandolfo
g) Brent Fomeyer
h) ~~Gil Lopez~~
i) John Tanis

8. During that same period, defendant terminated and/or caused the resignation of numerous of its older General Managers, including plaintiffs Dugan and Zielonka, as well as several others, including Bill Basham (50s) and Bill Jaynes (40s).

Dugan Allegations of Fact

9. Plaintiff Dugan began working for defendant in June 2000 as an Assistant Manager at the defendant's Westbury, Long Island, New York location.

10. Within the first few years of plaintiff Dugan's employment, defendant promoted him to the position of General Manager, a position he held for approximately 13 years until defendant's termination of his employment on April 5th, 2016.

11. Throughout his employment, plaintiff Dugan performed his job duties in a professional and dedicated manner. In his 16 years of employment, he was never disciplined for any "inappropriate conduct" or any violation of defendant's policies.

12. At the time of defendant's termination of plaintiff Dugan's employment, he held the position of General Manager of the Woodbridge, New Jersey store, where he had been assigned since May 2010.

13. At the time of defendant's termination of plaintiff Dugan's employment, he was 46 years old, and one of the oldest of defendant's General Managers reporting to District Manager Hetrick.

14. During the time in which plaintiff Dugan reported to District Manager Hetrick, Hetrick made several age-related comments to plaintiff Dugan, including the following: stating to plaintiff Dugan that "stores are tough to run when you are getting old;" stating to plaintiff Dugan that he needed to "find another gear" in which to work; and stating to plaintiff Dugan that he needed to "work faster."

15. In addition, on at least two separate occasions, Hetrick stated to plaintiff Dugan that he believed plaintiff Dugan was "getting too old for the job," the most recent occasion being during a Leadership Meeting held by defendant in October 2015.

16. In response to District Manager Hetrick's comment at the October 2015 meeting – "you're getting too old for the job" -- plaintiff Dugan stated to Hetrick, "That will be enough of that," making clear his objection to the comment.

17. In early 2016, defendant's Human Resources Support Team, apparently alerted to age-biased comments that had been made by District Manager Hetrick, contacted plaintiff Dugan to ask whether Hetrick had ever made any age-related comments or references in his presence.

18. In response to the inquiry from the defendant's Human Resources representative, plaintiff Dugan responded in the affirmative, and reported to the defendant's Human Resources representative the comments made by District Manager Hetrick quoted above, including: that plaintiff Dugan was "getting too old for the job;" that "stores are tough to run when you are getting old"; that plaintiff Dugan needed to "find another gear" in which to work"; and that plaintiff Dugan needed to "work faster."

19. Following his phone call with Human Resources, plaintiff Dugan called District Manager Hetrick and informed him that he had been called by Human Resources

asking about Hetrick's age-related comments, and that he had confirmed with Human Resources that he had indeed heard several such comments.

20. On March 29th, 2016, defendant directed plaintiff Dugan to attend a meeting with Human Resources regarding an employee named Mohammed Khalifa. The meeting was held by phone, and included plaintiff Dugan, District Manager Hetrick, Market Human Resources Director Joe Shearn, and a representative from the defendant's Human Resources Support Center.

21. During the phone call, plaintiff Dugan was asked how long he had been employed by the defendant, and about an interaction he had with Mr. Khalifa on March 24th, 2016.

22. During the phone call, plaintiff Dugan was asked if at any point during his interaction with Mr. Khalifa on March 24th, 2016, he had made either of the following statements to Mr. Khalifa: "I will kill you," or "I will kidnap your wife." Plaintiff Dugan denied making any such statements as he never made any such statements to Mr. Khalifa.

23. During the phone call, plaintiff Dugan was also asked if at any point during his interaction with Mr. Khalifa on March 24th, 2016, he had made other statements to Mr. Khalifa "to that effect." Plaintiff Dugan responded that he had not.

24. During the phone call, plaintiff Dugan explained that during his interaction with Mr. Khalifa on March 24th, 2016, Mr. Khalifa had taken offense to plaintiff Dugan's imitation of his voice, and that he had immediately apologized to Mr. Khalifa for offending him, and that he had made clear to Mr. Khalifa that it was not his intent to offend him. Plaintiff Dugan also explained that subsequent to his apology to Mr. Khalifa,

he had also contacted Market Human Resources Director Joe Shearn to inform him of the interaction.

25. On April 5th, 2016, District Manager Hetrick and Market Human Resources Director Joe Shearn presented plaintiff Dugan with an "Involuntary Separation Notice" dated for that day, and informed plaintiff Dugan that the defendant had decided to terminate his employment for "inappropriate conduct." A true and correct copy of the "Involuntary Separation Notice" is attached hereto as Exhibit A and incorporated by reference.

26. The purported basis for defendant's termination of plaintiff Dugan was that he had "engaged in behavior that was harassing and disruptive to the workforce. . . [including] teasing with offensive comments related to national origin and hurtful to at least one other employee." See Exhibit A.

27. In the hope that defendant would take the steps necessary to gather a complete picture of the interaction at issue, plaintiff Dugan inquired of District Manager Hetrick and Market Human Resources Director Joe Shearn whether they or any other representative of the defendant had reviewed the available security footage of the interaction in question. They admitted that neither they nor anyone else had done so.

28. When plaintiff Dugan also asked who had made the decision to terminate his employment, District Manager Hetrick replied that he and Market Director Bragg had made the decision to terminate plaintiff Dugan's employment.

29. Plaintiff Dugan also asked whether there were any written statements regarding the alleged incident with Mr. Khalifa and was told he would have to contact

Human Resources, even though Market Human Resources Director Joe Shearn was present in the room at the time.

30. During the meeting on April 5th, 2016, plaintiff Dugan refused to sign the "Involuntary Separation Notice," since he did not engage in the conduct described in the "Involuntary Separation Notice." See Exhibit A.

31. Defendant's Performance Policy relating to "inappropriate conduct" by its employees segregates incidents by severity level and provides for different levels of corrective action depending on the severity of the misconduct.

32. In this regard, the Performance Policy states that the disciplinary action for a "Scenario One" situation is a written warning. A true and correct copy of the defendant's "Inappropriate Conduct – Levels of Severity" guidelines is attached hereto as Exhibit B and incorporated by reference.

33. A "Scenario One" situation is described in defendant's Performance Policy as follows:

> '**Scenario One** – Sam tells a group of employees an inappropriate joke, making reference to a particular religious group. An employee, who heard the joke and was offended, confronted Sam. Sam, who has no prior history of similar behavior, quickly apologized for offending his co-worker.
>
> - **Outcome: Written Warning for Unsatisfactory Work Performance (related to Company Values)**'

See Exhibit B.

34. Contrary to defendant's Performance Policy, rather than issuing plaintiff Dugan a written warning for "unsatisfactory work performance" for a "Scenario One" violation, defendant instead summarily terminated his employment.

35. Throughout plaintiff Dugan's employment, he had never received any type of disciplinary action for "inappropriate conduct."

36. Following defendant's termination of plaintiff Dugan's employment, defendant replaced plaintiff Dugan with a significantly younger employee – Nick Metzner – who is in his late 20s or early 30s.

Zielonka Allegations of Fact

37. Plaintiff Zielonka began working for defendant in August 2000 as a Supervisor at defendant's Woodbridge, New Jersey store.

38. Within the first few years of plaintiff Zielonka's employment, defendant promoted plaintiff on several occasions, including to the position of Sales Manager, Operations Manager, General Manager in Training, and finally to General Manager, a position he held for approximately 11 years until the defendant's termination of his employment on December 14th, 2015.

39. Throughout his employment, defendant frequently assigned plaintiff Zielonka to "grand open" a store, including the Manalapan and Paramus locations, based on his proven track record, demonstrated commitment and work ethic.

40. Throughout plaintiff Zielonka's tenure with the Company, defendant assigned plaintiff Zielonka to service numerous stores, including the Rockaway, Brick, Holmdel, East Brunswick and South Brunswick, New Jersey stores.

41. At the time of defendant's termination of plaintiff Zielonka's employment, plaintiff Zielonka held the position of General Manager of the South Brunswick, New Jersey store, where he had been assigned since 2013.

42. At the time of defendant's termination of plaintiff Zielonka's employment, plaintiff Zielonka was 43 years old, and one of the oldest of defendant's General Managers reporting to defendant's District Manager Hetrick.

43. During the time in which plaintiff Zielonka reported to District Manager Hetrick and Market Director Bragg, they both made several age-related comments during store meetings and market meetings in which plaintiff Zielonka participated, including commenting that the younger, newer General Managers were willing to "work harder and travel further," and also commenting that the older, more experienced managers had a tendency to "not want to change."

44. Soon after Hetrick assumed the position of District Manager, he repeatedly threatened plaintiff Zielonka that he would put him on a Performance Improvement Plan because he "wasn't happy with his performance," while nonetheless also consistently informing plaintiff Zielonka that his store "looked good" and that he had achieved "good results" at his store.

45. Despite District Manager Hetrick's ongoing threats about placing plaintiff Zielonka on a Performance Improvement Plan, he never followed through, and plaintiff Zielonka's performance, when viewed objectively, never warranted a Performance Improvement Plan.

46. Plaintiff Zielonka was assigned to work the entirety of Black Friday weekend in 2015, including Thursday, November 26th [Thanksgiving Day], Friday, November 27th, Saturday, November 28th, and Sunday, November 29th.

47. While working that weekend, both District Manager Hetrick and Market Director Bragg called plaintiff Zielonka on Saturday, November 28th, and told him that he had done a "great job," commenting that his store was one of the "top revenue" stores.

48. Then, later that Saturday, defendant's Market Asset Protection representative Brian Farrell visited the South Brunswick store with District Manager Hetrick, and separately called in plaintiff Zielonka's direct reports – Filipe Maltez, Supervisor, and Shana Bell, Assistant Manager. Plaintiff Zielonka was not present for their questioning.

49. Following the questioning of plaintiff Zielonka's direct reports, Farrell and Hetrick met with plaintiff Zielonka, and accused him of engaging in "bulk selling" in violation of the Company's policies.

50. During this meeting, plaintiff Zielonka maintained that he had acted in accordance with defendant's policy, and also in a manner consistent with defendant's other General Managers.

51. Despite plaintiff Zielonka's response, during the meeting defendant continued to press plaintiff Zielonka to admit to wrongdoing, with District Manager Hetrick falsely claiming to have previously discussed "bulk selling" with plaintiff Zielonka. Plaintiff Zielonka directly challenged District Manager Hetrick's claim in this regard during the meeting.

52. Despite the pressure plaintiff Zielonka experienced during the meeting to admit to wrongdoing, he maintained that he had at all times acted in accordance with Company policy and in the same fashion that other General Managers, including the younger General Managers, had acted in carrying out their duties. The meeting ended with plaintiff Zielonka being told in a threatening manner, "We will get back to you."

53. A couple of weeks later, plaintiff Zielonka received a phone call from the defendant's Human Resources representative, who accused plaintiff Zielonka of "not telling the truth" about what had happened with respect to the bulk sale, and made clear to plaintiff Zielonka that she was not interested in any information he attempted to share with her.

54. Prior to receiving this phone call, it was reported to plaintiff Zielonka that Market Director Bragg had informed Market Human Resources Director Joseph Shearn that, "We are going to need to find a new General Manager for the South Brunswick store because I intend to terminate Mr. Zielonka."

55. On December 14th, 2015, defendant directed plaintiff Zielonka to attend a meeting with District Manager Hetrick and Human Resources Director Shearn. Hetrick presented plaintiff Zielonka with an "Involuntary Separation Notice" and stated, "Roman, you are going to get fired, terminated today." A true and correct copy of the "Involuntary Separation Notice" is attached hereto as Exhibit C and incorporated by reference.

56. The purported basis for plaintiff Zielonka's termination was that he had "initiated and directed two of [his] leaders to process transactions for limited quantity merchandise rather than directed the buyer to BBfB." See Exhibit C.

57. During the meeting on December 14th, 2015, plaintiff Zielonka refused to sign the "Involuntary Separation Notice," since he did not engage in the conduct described in the Notice, and because he believed he was unfairly singled out on the basis of his age. See Exhibit C.

58. Defendant's "Resellers Standard Operating Procedures" invests its General Managers with "discretion" in transacting with customers who are interested in "maximum purchase quantities."

59. Plaintiff Zielonka followed defendant's "Resellers Standard Operating Procedures" on November 27th, 2015, after learning from his direct reports that a customer was interested in "maximum purchase quantities."

60. Plaintiff Zielonka's direct reports – Mr. Maltez and Ms. Bell – did not receive any discipline for the alleged incident, despite their having been the individuals directly involved with the customer on November 27th, 2015. Mr. Maltez and Ms. Bell are both in their 20s.

61. Likewise, there are numerous younger General Managers who routinely exercise their discretion in the same fashion that plaintiff Zielonka did on the date in question in regard to customer requests for large quantities of products, but the younger General Managers have not been terminated or even disciplined.

62. Following defendant's termination of plaintiff Zielonka's employment, defendant replaced plaintiff Zielonka with a significantly younger employee – John Tanis – who is in his late 20s or early 30s.

COUNT ONE
Age Discrimination in Violation of the New Jersey Law Against Discrimination
(on behalf of Dugan and Zielonka)

63. Plaintiffs restate and incorporate the preceding paragraphs as if set forth herein in their entirety.

64. In terminating plaintiffs' employment, defendant discriminated against plaintiffs on account of their age in violation of the New Jersey Law Against Discrimination.

65. As a direct and proximate result of defendant's violations of the NJLAD, plaintiffs have suffered a loss of wages and benefits and emotional distress damages.

COUNT TWO

Retaliation in Violation of the
New Jersey Law Against Discrimination
(on behalf of Dugan)

66. Plaintiff Dugan restates and incorporates the preceding paragraphs as if set forth herein in their entirety.

67. By engaging in the aforementioned activities, plaintiff Dugan was engaged in protected conduct under the NJLAD.

68. In terminating plaintiff Dugan's employment, defendant retaliated against plaintiff Dugan for his complaints of age-related animus and bias by his supervisor Garrett Hetrick.

69. Defendant's retaliation against plaintiff Dugan violates the provisions of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-12.

70. As a direct and proximate result of defendant's unlawful retaliation against plaintiff Dugan, plaintiff Dugan has suffered, and will continue to suffer, the loss of his employment, the loss of significant wages and benefits, as well as emotional distress damages.

DEPUTY CLERK
SUPERIOR COURT
BURLINGTON COUNTY

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RELIEF REQUESTED

WHEREFORE, plaintiffs demand judgment against the defendant and request the following relief:

a. Order that defendant reinstate plaintiffs to their respective positions with defendant or to comparable positions in terms of salary, benefits and responsibility;

b. Order that defendant make plaintiffs whole for all losses they have suffered, still suffer, and will suffer in terms of lost wages, benefits, insurance and pension coverage, and any other fringe benefits of their employment;

c. Award plaintiffs compensatory damages for the injuries, including emotional distress, suffered as a result of defendant's discrimination and retaliation against plaintiffs because of their age in violation of the New Jersey Law Against Discrimination;

d. Award plaintiffs punitive damages on the grounds of upper management's actual participation in and/or willful indifference to defendant's discrimination and retaliation against plaintiffs;

e. Award plaintiffs' attorneys' fees and costs incurred by the need to bring this litigation; and

f. Grant plaintiffs such relief as the Court deems just and proper.

SCHALL & BARASCH. L.L.C.

By: [signature]
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 19, 2016

DEPUTY CLERK
SUPERIOR COURT
BURLINGTON COUNTY

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues as permitted by law.

SCHALL & BARASCH, L.L.C.

By: [signature]
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 19, 2016

CERTIFICATION PURSUANT TO RULE 4:5-1

1. I certify that, to my knowledge, the matter in controversy is not the subject of any other action pending in Court or of a pending arbitration proceeding

2. To my knowledge, no other action or arbitration is contemplated.

SCHALL & BARASCH, L.L.C.

By: [signature]
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 19, 2016

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Patricia Barasch is hereby designated as trial counsel in this matter.

BY: [signature]
PATRICIA A. BARASCH
Attorneys for Plaintiffs Kevin Dugan and Roman Zielonka

Dated: August 19, 2016

A

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BEST BUY

INVOLUNTARY SEPARATION NOTICE

(To be completed by the ER Case Management Team and the Manager and presented to the employee at the separation meeting. Signed form must be faxed to 952-430-4266.)

Employee Name: Kevin Dugan

Employee #: 577982

~~Location # / Corp Dept: 456~~

Termination Date: 04/05/16

Manager Name: Garrett Hetrick

Service Request #: HRC0189735

Involuntary Termination:

Describe facts and final circumstance leading to termination and reason for termination:

Best Buy expects all employees to act in accordance with the highest standards of personal and professional integrity at all times; and to comply with all Company rules and policies. An investigation into concerns with Kevin Dugan's conduct produced credible evidence that Kevin engaged in behavior that was harassing and disruptive to the workforce. This includes but is not limited to events surrounding Kevin engaging in teasing with offensive comments related to national origin and hurtful to at least one other employee. Kevin's actions are a violation of the Best Buy Policy against All Forms of Harassment, the Inappropriate Conduct Policy, and the Code of Business Ethics; and are grounds for termination.

Employee Comments: ______________________________

Involuntary Separation Reasons (choose one):

- ☐ Absenteeism/tardiness
- ☒ Inappropriate Conduct
- ☐ LOA—Exhausted Medical
- ☐ Misappropriation of Company Property
- ☐ No Work Authorization
- ☐ Staff Reduction
- ☐ Unacceptable Performance
- ☐ Violation of Rule or Policy
- ☐ O/S Assignment Complete

By signing I acknowledge that I have read and understand the contents of this document, which has been reviewed with me.

Employee Signature: *(note if refused or no show)* Refuse to sign Date: ______

Manager Signature: [signature] Date: 4/5/16

Witness Name: *(please print)* J. Shearn Title: Market HR Sr. Mgr

Witness Signature: [signature] Date: 4/5/16

B

INAPPROPRIATE CONDUCT

LEVELS OF SEVERITY

- **Scenario One** – Sam tells a group of employees an inappropriate joke making reference to a particular religious group. An employee who heard the joke and was offended, confronted Sam. Sam, who has no prior history of similar behavior, quickly apologized for offending his co-worker.
  - **Outcome**: Written Warning for Unsatisfactory Work Performance (related to Company Values)

- **Scenario Two** – On several occasions, Sue makes derogatory references to another employee's age – making fun of his struggles to learn a new computer system and continues even when asked to stop.
  - **Outcome**: Final Warning for Disorderly Conduct

- **Scenario Three** – John, a [illegible] ... [illegible] ... John tells [illegible] ... result, he will [illegible]

BEST BUY

INVOLUNTARY SEPARATION NOTICE

(To be completed by the ER Case Management Team and the Manager and presented to the employee at the separation meeting. Signed form must be faxed to 952-430-4259.)

Employee Name: Roman Zielonka | Employee #: M661202

Location # / Corp Dept: 001154-SOUTH BRUNSWICK-US | Termination Date: 12/14/2015

Manager Name: Garrett Hetrick | Service Request #: HRC0073705

Involuntary Termination:

Describe facts and final circumstance leading to termination and reason for termination:

Roman, on 11/28/15, you were interviewed regarding the execution of your job responsibilities. Over the course of several days you initiated and directed two of your leaders to process transactions for limited quantity merchandise rather than directing the buyer to BBfB. When questioned by those leaders regarding the transactions you disregarded their questions and directed them to proceed. This detrimentally impacted your ability to successfully lead your team, as it called into question your judgement. Processing of these transactions resulted in other customers not being able to obtain the limited quantity merchandise. You were previously coached on multiple occasions regarding engaging in these types of behaviors. Additionally, when you were interviewed by HR regarding the situation you were not forthcoming with what had occurred in these transactions, denied initiating or directing your leaders to process them and denied knowing the individual they were processed for. Your behavior is considered Inappropriate Behavior. As a result, your employment with Best Buy is terminated effective immediately.

Employee Comments: ______________________________

Involuntary Separation Reasons (choose one):

- ☐ Absenteeism/tardiness
- ☒ Inappropriate Conduct
- ☐ LOA—Exhausted Medical
- ☐ Misappropriation of Company Property
- ☐ No Work Authorization
- ☐ Staff Reduction
- ☐ Unacceptable Performance
- ☐ Violation of Rule or Policy
- ☐ O/S Assignment Complete

By signing I acknowledge that I have read and understand the contents of this document, which has been reviewed with me.

Employee Signature: *(note if refused or no show)* Employee Refused to sign **Date:** 12/14/15

Manager Signature: [signature] **Date:** 12/14/15

Witness Name: *(please print)* J. Sharen **Title:** Market HR Sr Mgr

Witness Signature: [signature] **Date:** 12/14/15